

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	McKenney et al.)	Examiner:	Gerardo Araque Jr.
Serial No.:	10/038,572)	Art Unit:	3629
Filing Date:	January 3, 2002)	Confirmation No.:	5850
Title:	Method for Managing Resource Assets for Emergency Situations)	Attorney Ref.:	19558.01US1

DECLARATION UNDER 37 C.F.R. §1.132

I, James L. (Jay) Bowden, hereby declare as follows:

1. I am a Certified Emergency Manager (CEM).
2. I have been an Emergency Manager working with various state and local

government emergency management programs for over 30 years. During this period, I have worked over 14 Presidential Disaster Declarations, including serving over 14 months in the New Orleans EOC following Hurricane Katrina. I have completed all applicable federal professional development training as well as extensive training and experience in hazardous materials response; skilled in planning, exercise and program design and development; experienced liaison with public safety and health organizations related to homeland security (CBRNE) and disaster preparedness and exercises; and I currently serve as an assessor for the national Emergency Management Accreditation Program (EMAP). Based on my experience and training, I believe I am qualified to opine on matters involving emergency response planning.

3. I have read the disclosure of U.S. Patent Application No. 10/038,572 entitled "Method for Managing Resource Assets for Emergency Situations," which was filed on January 3, 2002 by Scott A. McKenney and Robert D. Hunter. The application describes a method for

collecting, organizing, presenting and utilizing data for use by an emergency response team to respond to an emergency situation.

4. It is my understanding that Claims 1-11, 13-22, and 24-25 are presently pending according to Applicants' Response filed October 6, 2006, which I have also read. I understand that each of these claims stand rejected according to a Final Office Action mailed December 18, 2006, which I have read as well. I further understand that Applicants now propose to cancel each of these claims and instead wish to prosecute new Claims 26-48.

5. According to the Office Action mailed December 18, 2006, I understand that Claims 1-15 have been rejected because the Examiner believes that the claims purportedly lack utility for failing to produce a "concrete" result, and because the claims purportedly do not enable one of ordinary skill in the art to practice the invention without undue experimentation. More specifically, the pending claims have been rejected because the Examiner believes that the action of selecting data to assess the emergency situation is so variable that the method of Applicants' invention results in unrepeatable, and therefore, useless output. I disagree.

6. Based on my experience and expertise, I believe that the invention disclosed in this application is not only useful, but also fulfills a long-felt but previously unsolved need because community, regional, and national authorities responsible for the general welfare of citizens are faced with the monumental task of ensuring that they are adequately prepared for emergency situations that may potentially effect thousands of people. The Applicants' invention satisfies this need by providing a solution that integrates information from a variety of sources with a method for generating a time-phased response to emergencies of all types.

7. Moreover, after reading Applicants' invention as set out in current independent Claims 26, 38, and 46 provided to me by Applicants, as well as the disclosure of the application,

it is my opinion that these claims enable one of ordinary skill in the art, such as myself, to make and use the invention, as claimed, without undue experimentation. With any analytical model, the quality and usefulness of the output necessarily depends on the quality and accuracy of the input data. In this case, I believe a person of ordinary skill having experience in disaster response planning, would readily be able to select and/or input relevant and accurate information pertaining to the type and scope of any particular emergency or disaster to permit the method, as claimed in independent Claims 26, 38, and 46, to generate a useful and reasonably repeatable response plan.

8. Specifically, new independent Claim 26 (with a slight variation in Claims 38 and 46) replaces the step of “selecting data within said hierarchy and said spatial diagrams necessary to assess said emergency situation” in pending Claim 1 with the step of “estimating a quantity of people likely to be affected by the emergency situation to characterize the scope of the emergency situation.” The specification supports this limitation on page 15 at [0058]:

[After identifying the type of the emergency situation, the] user is next presented with a characterization page specific to the selected contingency. This page is used to collect information useful in characterizing the selected contingency. For example, in the case of a biological attack, the potential number of people exposed is a key consideration, as is the number of hospital beds available in the city.

This passage is further supported by the disclosure of Fig. 10. As a result, I believe the step of assessing the scope of the emergency situation, when this limitation is viewed in the context of the entire claim, enables one of ordinary skill to practice the invention without undue experimentation.

9. I declare under the penalty of perjury that the above is true and correct to the best of my knowledge.


In re Application of: McKenney et al.
Application No.: 10/038,572
Attorney Docket No.: 19558.01US1

Examiner: Gerardo Araque Jr.
Art Unit: 3629

Respectfully submitted,

Date: _____

6/15/07


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